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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<p>JOHN COPELAND, PEDRO PEREZ, NATIVE LEATHER, LTD.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>CYRUS VANCE, JR., in his Official Capacity as the New York County District Attorney, CITY OF NEW YORK,</p> <p>Defendants.</p>	<p>Case No.: 11cv3918</p> <p>EXPERT TRIAL DECLARATION OF BRUCE VOYLES PURSUANT TO F.R.E. 702</p>
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BRUCE VOYLES, pursuant to 28 U.S.C. § 1746(2), under penalty of perjury, hereby declares as follows:

Introduction

1. I am providing herein my opinion regarding several issues that concern the history of knives. First, I provide my opinion regarding the historical development and usage of the term "gravity knife." Second, I detail the historical use and commonality of folding knives in both America and New York State, with an emphasis on two design

features - the tendency of a folding knife to resist opening from the closed position, and the ability of a folding knife to lock its blade in the open position. Finally, I explain references to knives in several specific historical materials.

2. On January 24, 2013 I submitted an expert report in this action. The report is attached hereto as **Exhibit A** and is further identified for evidence as **Exhibit P-14**.

Background and Qualifications

3. I received a Bachelor of Arts in Journalism from Georgia State University in 1975 and attended the Stanford University Publishing Course and the Stanford University Publishing Course Refresher in 1981 and 1983 respectively.

4. I have edited various knife publications since 1977. I have been Editor-at-Large at Knife Magazine since 2015.

5. Additionally since 1999 I have owned and operated J. Bruce Voyles, Auctioneers and Appraisers, an auction company that specializes in knives. In both professions I am constantly involved in research of cutlery history and knives, as it is essential in both of my professions. Both my readers and my customers rely on my opinions for accurate descriptions and categorizations of knives. I have written over a dozen knife price guide/histories, with historical research required for each, as well as numerous magazine articles. In particular I am acknowledged and sourced throughout the book, "Cultural Resources Site Examination of New York State Museum Site 10935, New York Knife Company" by Joseph Sopko (New York State Education Department, 2002). I have been able to prepare these materials based on extensive personal research, interviews with historical cutlery figures for over 35 years, and also I have assembled one of the most

extensive cutlery libraries known. I have been a collector and dealer of vintage and collectible knives since 1974.

6. I was qualified as an expert witness and testified at trial on the subject of the status of balisong knives under the Federal Switchblade Knife Act on behalf of the plaintiff in Taylor v. McManus, No. Civ-2-85-199, United States District Court for the Northern District of Tennessee.

7. Attached hereto as **Exhibit B**, also marked for evidence as **Exhibit P-15**, is my full Curricula Vitae setting forth my qualifications.

What does the term "gravity knife" generally refer to today?

8. A gravity knife is a knife whose blade is nested totally within the handle, and works by the blade retainer being released, and letting gravity pull the knife out of the end of the knife. Such a knife does not have a conventional pivot pin, backspring, or other hardware associated with folding knife mechanisms.

9. A gravity knife is deployed when the knife is pointed to the ground, a lever or button locking the blade into the handle is pushed and the blade falls out by gravity pull. No muscle action is used in any way, although since there is no resistance to the blade opening once the button is pushed, it could be opened with centrifugal force were it not pointed toward the ground.

10. In my more than 35 years in the cutlery trade, the term "gravity knife" has always referred to a knife based on this design.

What does the term "gravity knife" generally refer to historically? Is there any difference between the historical understanding and the understanding today?

11. Gravity knives were produced as trick novelties in the 1880's. These knives did work as gravity knives, but were flimsy, and while useful for cutting string or opening an envelope, the primary appeal of them was the novelty of the opening method rather than the utility. Attached hereto as **Exhibit C**, also marked for evidence as **Exhibit P-16**, is a diagram of an early gravity-operated novelty knife from a patent drawing.

12. The first heavy duty functional gravity knife was produced by Miller Brothers Cutlery in Meriden, Conn. for the U. S. Navy around 1898. Gravity knives were produced for those whose other hand might be otherwise injured or required to hold on to something. For example sailors were issued Miller Brothers gravity knives that could be deployed with one hand while holding on to rigging. The blade was blunted as typical on sailing knives of the period. Attached hereto as **Exhibit D**, also marked for evidence as **Exhibit P-17**, are pictures of several Miller Brothers gravity knives.

13. During WWII a similar gravity knife was issued to German paratroopers in case they found themselves in trees and needed to cut their rigging, and deployed in the same manner, by pointing toward the ground, releasing the lock, and letting gravity do the work. This German paratrooper knife is the most well-known type of "gravity knife." Attached hereto as **Exhibit E**, also marked for evidence as **Exhibit P-18**, is a picture of a German paratrooper gravity knife.

14. These knives were gravity knives-and did not fold, nor did they have any resistance to the blade opening once the holding lever or button was released.

Historical References to Gravity Knives

15. I reviewed a number of historical materials that refer to gravity knives and gravity-operated knives. These materials cover the period of time from the late 1800s, when gravity-operated knives first appeared, up through 1958, when both New York State and the federal government adopted legislation that prohibited gravity knives. Specifically, I reviewed:

- Patents filed with the US Patent & Trademark Office in the late 1800s that detail the design and operation of early gravity knives (attached hereto as **Exhibit F**, also marked for evidence as **Exhibit P-19**);
- The "bill jacket" from New York's 1958 gravity knife law knives (attached hereto as **Exhibit G**, also marked for evidence as **Exhibit P-20**);
- Hearings that took place in the U.S. House of Representatives and the U.S. Senate relative to the 1958 Federal Switchblade Act, as well as House and Senate Reports on the proposed law, and also the Congressional Record for the proposed law knives (attached hereto as **Exhibit H**, also marked for evidence as **Exhibit P-21**); and
- Descriptions of gravity knives published in the *New York Times* around the time that the gravity knife law was enacted knives (attached hereto as **Exhibit I**, also marked for evidence as **Exhibit P-22**).

16. These historical references used the same "gravity knife" definition that I have already provided: a knife that does not fold, but instead has a blade that falls. They generally referred to the gravity knife as a device designed for German paratroopers in World War II. For example, during 1958 committee hearings in the U.S. House of Representatives that concerned the Federal Switchblade Act (which prohibited interstate shipment of switchblade and gravity knives), two Representatives from New York testified in support of passing the federal law. Both Representatives stated that New York had banned gravity knives, and both described gravity knives as knives that featured falling blades, not folding blades. (**Exhibit H/P-21**, House Committee Hearing at KR00045, 47

(Delaney) (Two references to "German paratroopers") and KR00061 (Kelly) ("drop knife," "A flick of the wrist sends the blade darting forth").

17. There are also indications from the hearings that there was an understanding that folding knives (in particular) were not impacted by the gravity knife law. In the Senate hearing, Senator Strom Thurmond asked if the law would apply to "Boy Scout knives". Justice John E. Cone, a New York judge who was testifying about New York's experience banning switchblade and gravity knives, answered that the gravity knife law did not apply to "the jackknife." (**Exhibit H/P-21**, Senate Committee Hearing at 23, KR000105.)

18. The term "Boy Scout knife" refers to a four blade knife with a large spear point master blade, a smaller secondary blade, a can opener blade and a cap lifter screwdriver blade. The term "jackknife" has a broader definition. The specific definition to knife enthusiasts is a swell end knife with two blades coming from the same end, but the general definition commonly associated with "jackknife" is any knife that folds. The term jack knife supposedly was named after Jaques de Liege, who is attributed as the man who developed the folding knife.

19. I did find two references that might suggest that folding knives could be considered gravity knives, at least under certain circumstances. First, when Justice Cone testified about New York's experience banning switchblade and gravity knives, he at one point described gravity knives as something that "got around" the prohibition on switchblade knives and said that "There is no difference between the two, one you press the button, the other you snap a wrist." If taken literally, this description seems to suggest a folding switchblade knife that no longer has a spring to propel the blade open.

20. The other potential reference took place during debate on the Federal Switchblade Act in the House of Representatives in 1958. According to the Congressional Record, the following exchange took place:

Mr. WHITENER: As I understand it, this bill does not apply to razors and other weapons such as pistols, used by delinquents; Is that right? Does it apply to razors, straight razors, or pistols, or sheath knives?

Mr. HARRIS: It does not apply to pistols, but it could apply to certain types of razors, the razors you call the straight razors, the kind that can be immediately opened with a flip of the wrist. It includes that kind.

Mr. WHITENER: So if a barber carried one across a State line, he might have to serve 2 years in prison?

Mr. MACK: If I may answer the gentleman's question, I will say that it does not apply to razors as we know the razors referred to. This applies only to switchblade knives and applies to switchblade knives that open by gravity or inertia. It does not apply and would not limit the transportation of razors in interstate commerce.

(**Exhibit H/P-21**, Congressional Record at KR00026.)

21. In other words, one of the Representatives stated his understanding that "straight razors . . . that can be immediately opened with a flip of the wrist" would fall under the prohibition, while another Representative stated his understanding that they would not. A straight razor is a razor that folds on a pivot in and out of a handle. It is not normally referred to as a "folding knife," as the handle is designed to protect the blade, not for utility in carrying. However, a straight razor does use a folding mechanism. Significantly, this mechanism does not resist opening from the closed position.

22. My conclusion is therefore that historically folding knives have not been referred to or categorized as gravity knives. The only exception is that there is some limited

authority suggesting that a folding knife can be a gravity knife if it is a type of folding knife that has no resistance to opening.

Contemporary References to Gravity Knives

23. Contemporary references generally refer to gravity knives in the manner I have explained as knives that do not fold, but that instead have blades that fall downwards when released. Prior to my learning about the enforcement actions in New York City and becoming involved in this case, I had never heard of anyone referring to a folding knife of any type as a gravity knife. However, in my research, I was able to find one contemporary reference that indicates that a folding knife can potentially be a "gravity knife"- although again, only if it is a folding knife that does not resist opening from the closed position.

24. Attached as **Exhibit J**, also marked for evidence as **Exhibit P-23**, is the American Knife & Tool Institute ("AKTI") published definitions that refers to a gravity knife as a knife that opens by gravity, is secured by a button or other mechanical triggering device, and this definition says that the blade of a gravity knife may be either folding or moveable. The AKTI definition focuses on whether a knife has a detent, spring, or object applying resistance to the blade. Under this definition, a folding knife that did not resist opening would be a "gravity knife."

Prevalence of folding knives in the period of time leading up to 1958

25. Folding knives have been a common part of everyday America since the founding of the country. For example, George Washington's pearl pocketknife is in the Masonic Lodge of Arlington, VA, and Thomas Jefferson carried a knife which he

reportedly used to scrape mud off his boots. When Abraham Lincoln was assassinated among the effects he had on him was a six-bladed folding knife.

26. In more recent times Dwight D. Eisenhower commonly gave a Case 06263 pattern folding pen knife to guests, and Lyndon Johnson gave Swiss Army folding knives with his name in the handle to guests and visitors. Senator Lamar Alexander of Tennessee opened his Presidential campaign a few years ago with a speech in Maryville, TN in which he pulled a folding knife from his pocket and lamented that when he was a youngster it was acceptable to carry such a knife in his pocket to school.

27. Folding knives were a significant part of early industrial development in the U. S. There was little knife manufacturing in the U. S. in the 18th century save for blacksmiths and surgical instrument makers producing knives one at a time. However, in the 1830's John Russell Company began producing knives in a factory at Turner Falls, Mass., utilizing water power and trip hammers, a technological leap at the time. Other companies soon followed, filling the Connecticut Valley with many small factories, with Waterville Cutlery in Waterville, Conn. one of the largest.

28. In the 1850's-60's many of the professional cutlers who had immigrated to the U. S. to work in the Connecticut factories formed new companies and established factories in the Hudson Valley, in particular around Walden, NY and the surrounding towns. New York Knife Company in Walden was one of the largest knife companies in the world by the turn of the 19th century.

29. More evidence of the prevalence of common folding knife usage is with the coming of the huge hardware distributors like E. C. Simmons Hardware; Hibbard, Spencer,

& Bartlett, and others among the first items they advertised in their inventory was cutlery. Large portions of their catalogs were devoted to folding knives.

Folding knives that have been manufactured in New York State

30. New York Knife Company started in 1853 in Mattewan (now Beacon), NY, moving to Walden in 1856. Ex-NYC workers started Walden Knife Company in that town, with Schrade Cutlery Company producing knives in Walden and later Ellenville. Ulster Knife Company originated in Ellenville and produced knives for almost a century. Camillus Cutlery Company in Camillus, Robeson Cutlery Co. in Rochester, Ka-Bar Knives in Olean, Alcas Cutlery (Cutco) in Olean, (Ka-Bar had a factory in Olean for many years and is now owned by Alcas but marketed under Kabar), and Utica Cutlery Co. in Utica all produced knives for decades. Utica still does, and former Schrade employees produced knives in Ellenville in the old Ulster/Schrade factory building under the name "Canal Street Cutlery."

31. New York Knife Company's best known knife was a large folding knife with a front lock, shown in the illustration attached hereto as **Exhibit K**, also marked for evidence as **Exhibit P-24**.

32. While the aforementioned knife companies did produce an occasional fixed blade, they were almost entirely known for producing quality folding knives. Schrade, Ulster, Robeson, Kabar, and Camillus all made lock blade knives before and after the 1958 restrictions. Schrade had many patents for switchblades and was one of the largest U.S. manufacturers of switchblade knives. They continued to produce lockbacks after discontinuing switchblade manufacture.

33. In July 23, 1958 a hearing that took place before a U.S. Senate committee that was considering the Federal Switchblade Act. The Federal Switchblade Act, which was enacted in 1958, prohibits the interstate sale of both switchblade knives and gravity knives. At that hearing, a representative of Camillus Knife Co. testified in support of the Federal Switchblade Act. The representative brought a display of knives that the Camillus Knife Co. manufactured, and he testified that none of the knives that Camillus manufactured were switchblade or gravity knives.

34. I understand that New York State's "gravity knife" prohibition became a law on March 5, 1958, and that the State's "switchblade" prohibition became law in 1954. Hence, the Camillus representative's testimony took place after New York had enacted its State laws prohibiting switchblade and gravity knives.

35. Camillus was a company that manufactured knives in Camillus, New York from 1902 to 2007. Camillus produced both fixed-bladed knives and folding knives. Specifically, Camillus produced lockback folding knives around the time of 1958. The picture attached hereto as **Exhibit L**, also marked for evidence as **Exhibit P-25**, shows an example of a lockback Camillus folding knife.

36. In the hearing testimony, it is important to note that the Camillus representative specifically demonstrated a "fish knife." This is a knife that, per the catalog (below), has a locking blade. Again, this reflects the understanding that ordinary folding knives were not gravity knives. Also please note in the page from a 1955 Camillus catalog attached hereto as **Exhibit M**, also marked for evidence as **Exhibit P-26**, two of the knives shown are advertised as having blades that lock. (#1 and #5). Camillus made folding knives with locking blades both before and after the 1958 laws.

1950s and 1960s New York Times Articles

37. I reviewed articles in the *New York Times* archive from the 1950s and 60s that refer to a "gravity knife" or "gravity knives" to determine the types of knives that were apparently referenced, whether the articles referred to traditional or customary "gravity knives," or whether they instead referred to folding knives, or to some other types of knives.

(See **Exhibit I**, discussed above, also marked for evidence as **Exhibit P-22**.)

38. In no contemporary descriptions did I find a lockback knife referred to was a "gravity knife." Rather the descriptions match that of the German paratrooper style knife.

39. In examining articles in the New York Times from 1958, I have included a few excerpts, followed by my more specific excerpt that I feel reinforces my definition earlier:

- a) *Opens with a flick of the wrist or by holding it blade down so that gravity sets the blade in place for cutting.*

New York Times, March 26, 1958 "Sentence in Knife Sale-Suspended Term imposed on Gravity-Blade Case

"Holding it blade down so that gravity set the blade in place"

- b) *The Gravity knife is one in which a long blade slides by its own weight out of a hollow handle and locks in place.*

New York Times, Feb. 71 1958 "Ban .Asked on Teen-Agers' Weapons"

"Slides by its own weight out of a hollow handle"

- c) *A gravity knife is one in which a long blade slides by its own weight out of a hollow handle and locks in place.*

New York Times, Feb. 11, 1958 "Higher Age Limit For Arms is Urged"

"By its own weight out of a hollow handle"

- d) *A gravity knife is one with a button that keeps the blade concealed. When the button is pushed, disengaging the blade, a flip of the wrist or simply holding the knife pointed down will set the blade in place for cutting.*

New York Times, Feb. 6, 1958 "Court Bans Sale of Gravity Knives"

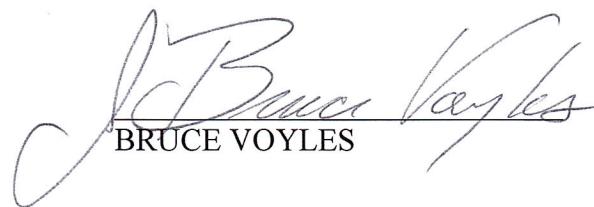
"Simply holding the knife pointed down"

- 40. All of these descriptions refer to a traditional gravity knife, not a folding knife.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: March 7, 2016
Ooltewah, Tennessee



BRUCE VOYLES